

1 A. That was the day the woman first came in.

2 Q. This is the very first date the patient was there, is
3 that correct?

4 A. Yes.

5 Q. Or maybe the next date?

6 A. Correct.

7 Q. And that was the way it was always done at your clinic,
8 the chiropractors, either you or Doctor Filcheck, filled out
9 this form either the day the patient came in or the next
10 date, is that correct?

11 A. Right. Upon reviewing our initial findings based on the
12 protocols.

13 Q. Now I believe, if you'll magnify this section down here
14 for the doctor, please, these are the various procedures that
15 you were ordering for this patient, is that correct?

16 A. As per the protocols of the clinic.

17 Q. And that was the protocol set up by Doctor Halstead and
18 Doctor Burns?

19 A. Correct.

20 Q. Now I believe, if you would look, I believe you are
21 ordering a nerve conduction test under diagnosis, the third
22 one down I believe? Would you highlight that for the doctor,
23 please?

24 A. That says nerve conduction.

25 Q. Okay. And it's your handwriting to the right of the

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1 printed words nerve conduction?

2 A. Correct.

3 Q. Okay. 2W means what?

4 A. Two weeks.

5 Q. That's when it was to be done?

6 A. Correct.

7 Q. Okay. And then further to the right it has some more
8 writing, is that also yours?

9 A. Correct.

10 Q. And what does that say?

11 A. It says two and then there's an open parenthesis, 6W,
12 closed parenthesis and an S with a circle around it.

13 Q. Okay. What does the two mean?

14 A. It means it should be performed two more times within a
15 six week period with a stop at the end of that time.

16 Q. That's an S, not a five?

17 A. I believe it's an S.

18 Q. Okay. So you were going to have how many nerve
19 conduction tests for this patient?

20 A. Two within a six-week period.

21 Q. And the first one?

22 A. No, I believe that--the way I interpret it is two within
23 the six-week period.

24 Q. Okay. And by a nerve conduction test, did you mean a
25 neurometer?

1 A. Yes.

2 Q. All right. If you would remove the magnification,
3 please. If I could have up 4-002, please. And do you
4 recognize your own handwriting on this?

5 A. Yes, I do.

6 Q. Just like the handwriting expert said, this is yours?

7 A. Correct. Well, mostly mine.

8 Q. Mostly yours?

9 A. Correct.

10 Q. All right. Do you--would you magnify this section across
11 there for the doctor, please? And tell--can you identify any
12 treatment dates where the patient was seen by an M.D.?

13 A. Well, I see one here. I can't read the date but it's on
14 seventeen.

15 Q. Okay. Do you see any others?

16 A. I can't see from that. It's pretty blurry but, again,
17 also if the patient saw say, for example, the medical doctor
18 on the first visit, that might not also be on the card.

19 Q. Okay.

20 A. That would be in the patient file.

21 Q. Sure. Let's go ahead and remove the magnification,
22 please. Would you highlight the column seventeen in yellow,
23 please? Now, let's go back up and see if we can--magnify the
24 area above column seventeen, see if we can pick up some of
25 the dates for the doctor, please. Can you read any of the

1 dates there, Doctor?

2 A. It might be October or November.

3 Q. Okay.

4 A. It says M.D.

5 Q. Can you see like around number fifteen, it looks like
6 October and number eighteen sort of looks like November?

7 A. No, but I might be able to look up Doctor Price's, if I
8 might have to look at the chart for that day, that might
9 help.

10 Q. All right.

11 A. Is that okay?

12 Q. Go right ahead, please. We'll call it up for you. If I
13 could have up--if you would put this on the right-hand side
14 of the screen, please.

15 A. I found it, sir.

16 Q. We're going to get it up for the jury also.

17 A. Okay.

18 Q. And would you put on the other side of the screen, 4-008,
19 please? Magnify the date in the upper right-hand corner,
20 please. And that date was?

21 A. 10/29/96.

22 Q. Okay. Would you remove magnification and remove--go back
23 to a single screen with the travel card. That would indicate
24 that visit would have been 10/29/96, is that correct?

25 A. Correct.

1 Q. Okay. Now if I can have--if you would remove that--keep
2 the highlighting on it but remove the document and let's go
3 to 4-001, please. And would you magnify the services and the
4 dates on the bottom, please. This indicates that this is a
5 billing for what kind of services, Doctor?

6 A. For three different dates. For 9/11, 9/12, 9/13,
7 different office visits.

8 Q. Three kinds of office visits?

9 A. Right.

10 Q. Or two kinds of office visits but on three different
11 dates?

12 A. Correct.

13 Q. Okay. Remove the magnification, please. And would you
14 put that on one side of the screen, please? And bring up on
15 the other side the travel card, which is 4-002. And would
16 you put the highlighting back on the M.D. visit column,
17 please? Would you magnify this section of the screen for the
18 doctor? Doctor, do you see the dates that were on the HCFA-
19 1500 as the first three visits for this patient?

20 A. Correct.

21 Q. Okay. Would you highlight each of those visits in green
22 please? Could we go back to just have the travel card as a
23 single screen please? 4-002. Would you highlight the first
24 three visits, please? And those were the services that were
25 billed, sixteen visits before the patient saw the M.D.?

1 A. For those dates.

2 Q. Is that correct?

3 A. On those three dates, yes.

4 Q. Okay. And those were office visits with you, would that
5 be correct?

6 A. Correct.

7 Q. Now each time you would see the patient, you would see
8 the travel card?

9 A. Yes, I would.

10 Q. And each time when you would see the patient and you
11 would see the travel card, did you notice that there was no
12 visit with the M.D. noted on the travel card?

13 A. As I said, on the first visit, sometimes it wasn't but
14 after that I would notice.

15 Q. Okay. So you noticed on each of these the patient had
16 not seen the M.D. as far as you could tell from the travel
17 card?

18 A. Correct.

19 Q. Did you go running down to Mr. Twigg and say, Mr. Twigg,
20 I've got a patient who hasn't seen the doctor yet? Did you
21 go down and do that?

22 A. No. I was not in charge of M.D. schedule.

23 Q. Did you go to Doctor Burns and say, Doctor Burns, our
24 captain's not seeing this patient?

25 A. No, I did not. Again, I was not in charge of M.D.

1 schedule.

2 Q. Who was in charge of this patient's treatment on these
3 first three visits?

4 A. I was.

5 Q. Okay. All the way through treatment number sixteen?

6 A. Yes, except for one date where she cancelled, yes.

7 Q. Okay. Everything that was done to this patient was
8 yours, was it not?

9 A. I worked on the patient and, yes.

10 Q. Okay. And even after the M.D. saw this patient on visit
11 seventeen, this patient remained your patient and you were
12 the treating physician, were you not?

13 A. Correct. The medical doctor recommended continued spinal
14 manipulation.

15 Q. Okay. And that was critical to you at that time, right?

16 A. Well, critical to me and the patient. The patient needed
17 the care.

18 Q. Did you ever see the doctor's notes?

19 A. Not routinely.

20 Q. Did you--you would not see the doctor's notes routinely?

21 A. Again, these were placed in the patient chart, which was
22 up front or in her office.

23 Q. Didn't you tell the jury on direct that the medical
24 doctor was directing the treatment of these patients?

25 A. I said in most cases, I believe.

1 Q. How would you know what the medical doctor was directing
2 if you were not looking at the medical doctor's records?

3 A. I would not.

4 Q. Let's go to 4-010, please. And would you magnify the
5 text portion of this, please? Would you read that for the
6 jury?

7 A. Sure. "I have been notified by my physician that he
8 believes that in my case Medicare is likely to
9 deny payment for the service identified below
10 for the reason stated. If Medicare denies
11 payment, I agree to be personally and fully
12 responsible for payment. Reason: Medicare
13 does not usually pay for this many visits or
14 treatments."

15 Q. Okay. Now this--would you remove magnification, please?
16 Would you magnify the date on the bottom? What's the date?

17 A. 9/16/97.

18 Q. And according to the travel card, if my memory is right,
19 the first time you saw this patient was 9/11/97?

20 A. Correct.

21 Q. You already knew you were going to go over the Medicare
22 limits, right?

23 A. On this she was seen before the travel card was
24 implemented.

25 Q. You already knew that she was going to go over the

1 Medicare limits by 9/16/97 for chiropractic treatment. Is
2 that correct?

3 A. No, I don't believe I knew that. There was a time where
4 before the travel cards we had charts.

5 Q. All right.

6 MR. ZIMAROWSKI: Your Honor, may I voice an
7 objection? This is 9/16/97, which is outside the scope;
8 therefore it's not relevant and what Mr. Donley has done is
9 he's added another year on the analysis of Mr. Taylor so Mr.
10 Taylor's record is entirely appropriate since it's six months
11 after the conspiracy allegedly ended.

12 THE COURT: Mr. Harris?

13 MR. DONLEY: I'll move on.

14 THE COURT: Well, I think that this all has been
15 outside the scope of the indictment and ladies and gentlemen,
16 to the extent that you've seen any exhibits or heard any
17 testimony that relate to a period of time after May of 1997,
18 the Court orders you to ignore it because it's outside the
19 scope of the conspiracy.

20 BY MR. DONLEY:

21 Q. Would you remove the magnification, please? All right.
22 Let's go to Exhibit 4-011 and would you magnify the top
23 portion of this for the doctor, please? And this is a
24 portion of DOV, is that correct?

25 A. It appears to be.

1 Q. Okay. And this is payment for the three services that
2 were on the HCFA-1500 that's been identified as 4-001, dates
3 of service being 9/11, 12 and 13, is that correct?

4 A. Correct.

5 Q. Remove the magnification, please. At some point during
6 the patient's treatment, this patient's treatment, did you
7 have to do a letter of medical necessity, is that correct?

8 A. I assume, yes.

9 Q. Okay. Can we go to 4-009? It's a little hard to read.
10 Would you magnify the first couple paragraphs of the
11 document, please? Does that help you a little bit, Doctor?

12 A. Yes, it does.

13 Q. This appears to be a letter of medical necessity?

14 A. Yes, but I don't believe I wrote that particular one.

15 Q. Okay. First date on this is September 11, '96, is that
16 correct?

17 A. Yes, correct.

18 Q. Would you remove the magnification and would you go down
19 and magnify the next couple paragraphs for the doctor? This
20 one is for some treatment on September 12?

21 A. Yes, '96, yes.

22 Q. Remove the magnification. And the next one, would you
23 magnify that section for the doctor? And this is--

24 MR. HARRIS: Your Honor, I'm going to object. He
25 said he didn't write this letter.

1 THE COURT: I understand that. Mr. Donley, what's
2 the relevance to this witness?

3 MR. DONLEY: I'll get to it in a moment, I believe,
4 Your Honor.

5 THE COURT: All right. All right. I'll permit you-
6 -if you say you're going to link it up, I'll permit further
7 questioning.

8 BY MR. DONLEY:

9 Q. This one is dated September 13, is that correct?

10 A. Correct.

11 Q. Okay. And this is again just reviewing what happened to
12 the patient, is that right?

13 A. Yes.

14 Q. Okay. Now do you know who wrote this one?

15 A. I believe Doctor Frank Novak.

16 Q. Okay. And do you know why he would be writing one of
17 these for your patients?

18 A. It was his job to write medical necessity letters and do
19 various correspondence.

20 Q. Did you review it?

21 A. I might have. I can't recall seven years later.

22 Q. Okay. And the purpose of the letter of medical necessity
23 was to report all the relevant factors that had happened to
24 the patient to the insurance company, is that correct?

25 A. Yes.

1 Q. Okay. Can we go to--remove the magnification, we'll go
2 to page three. Will you magnify the bottom section down
3 there? And, again, we're now moving up through September the
4 27th, is that correct?

5 A. Excuse me? I couldn't hear you, I was coughing.

6 Q. We've now, in this letter of medical necessity, we're up
7 through September the 27th, is that correct?

8 A. Correct, 1996, yes.

9 Q. Remove the magnification and go to page four, please.
10 And, again, it's very hard to read, but would you magnify the
11 section right at the bottom for the doctor? And this is the
12 October 17th summary of what happened to the patient?

13 A. Correct.

14 Q. Okay. Would you go to the next page, please, and magnify
15 the upper section there, please? And this is a continuation
16 from the October the 17th on the previous page, is that
17 correct?

18 A. Yes, it appears correct.

19 Q. Okay. Would you remove the magnification, please and go
20 down one more, please? And this is--I'm sorry, two more.
21 October the 22nd and then this is--would you magnify that
22 area, please? October the 24th?

23 A. Correct.

24 Q. Keep going please. And this is October the 29th?

25 A. Correct.

1 Q. Okay. This doesn't report, Doctor, actually saw an M.D.
2 on that date, does it?

3 A. It appears not. I didn't read the whole note though.

4 Q. Okay.

5 A. Would you like me to?

6 Q. Please. Read it to yourself.

7 A. It says the patient was examined by the medical doctor on
8 this visit.

9 Q. It doesn't report anything about what the medical doctor
10 did, does it?

11 A. No, it does not.

12 Q. Okay. And that's because it wasn't important at this
13 clinic as to what the medical doctor did?

14 A. I don't believe that's true.

15 Q. Okay. Let's go to 5-002. Again this is your--a
16 superbill for your patient?

17 A. Correct.

18 Q. And this is billing for various services, is that
19 correct?

20 A. Yes.

21 Q. Okay. Let's go to 5-001, please. And would you magnify
22 the CPT Codes and the dates at the bottom, please? Okay.
23 These were all services performed by you on the dates
24 indicated?

25 A. Yes.

1 Q. Okay. These were all office visits?

2 A. Correct.

3 Q. Okay. Now remove the magnification, please. Those
4 dates--may I have that on the left side of the screen, please
5 and on the right-hand, remove that magnification, I'll have
6 up 1-301, please. It's been admitted, Your Honor. And may I
7 have up page two of 301, please? If you would go back and
8 magnify these dates of service for us, please. Okay. The
9 first date of service on the HCFA-1500 is 7/11/96, is that
10 correct?

11 A. Yes, on the HCFA, yes.

12 Q. Would you magnify in yellow 7/11/96 on Exhibit 301,
13 please? 7/11/96. Would you highlight that please? And the
14 next one is dated 7/15--sorry, 7/19/96, is that correct?

15 A. On the HCFA, yes.

16 Q. Okay. Would you highlight 7/19/96 on the exhibit 301?
17 And the next date of service was 7/23/96, is that correct?

18 A. Yes, that's correct.

19 Q. Would you highlight that on 301, please? 7/23/96. And
20 the last date of service was 7/24/96, is that correct?

21 A. On that HCFA form, yes.

22 Q. Okay. And would you highlight that for the Doctor,
23 please on 301? Okay. And would you go back to the original-
24 -remove the magnification on 301, please? And what is the
25 caption on the top of this exhibit, if you can read it to the

1 jury?

2 A. On top of the one on the right.

3 "Days Doctor Rebecca Price was not in the offices of
4 Priority One based upon time cards and upon my
5 book."

6 Q. Okay. I believe, Doctor, I skipped over 7/22/96. Would
7 you highlight that, please? Would you agree that this was
8 billing for services on days Doctor Price was not in the
9 office?

10 A. It appears so from that chart, yes.

11 Q. Would you remove the magnification on the HCFA-1500,
12 please? Would you magnify the provider's name in the lower
13 left-hand corner? This is Rebecca A. Price, is that correct?

14 A. Correct, M.D.

15 Q. Okay. And you knew that this patient was a Medicare
16 patient, did you not?

17 A. Yes, I did.

18 Q. Remove the exhibits please. Could I have up 1-131
19 please? You recognize this, do you not, Doctor?

20 A. Yes, I do.

21 Q. Okay. It's a letter you wrote?

22 A. Yes.

23 Q. Okay. Would you magnify the "looking for testing"
24 paragraph for the doctor, please? You wrote this to Doctor
25 Burns at about what time period?

1 A. Sometime while Doctor Medina was employed and before
2 Doctor Price; somewhere in that time frame.

3 Q. Doctor Medina testified that he left in November of 1995,
4 is that correct?

5 A. Right, in late November, I believe.

6 Q. All right. Now looking for testing, is that what you
7 wrote down?

8 A. Yes, I did.

9 Q. That means you have to look for reasons to test patients,
10 is that not what that means?

11 A. Well, again, the protocols set up different parameters,
12 how often the patient should have a particular test.

13 Q. Does it not mean that you had to look for reasons to test
14 the patients?

15 A. No, it does not.

16 Q. Remove the magnification please. Would you magnify the
17 bottom paragraph, please? And would you highlight "it's not
18 good enough to get the patient well"? This is a complaint
19 you had while you were working at the clinic, is it not?

20 A. Yes, but there is additional notes on there, yes.

21 Q. Okay. And would you highlight "but I'm penalized when
22 they don't stay for thirty-six visits"? Is--was this a
23 complaint you had while you were at the clinic?

24 A. Yes. Again, I was talking about the different treatment
25 programs. There was usually twelve in relief, twelve in

1 correction and twelve in stabilization or support, so that's
2 what the thirty-six meant.

3 Q. And if they didn't stay for thirty-six visits, you didn't
4 get your bonus?

5 A. Well, that's not exactly true. As I said yesterday, the
6 patient visit average started at twenty-four.

7 Q. If they didn't stay beyond twenty-four, you wouldn't get
8 your bonus?

9 A. Anything less than twenty-four, no, I would not.

10 Q. And it was important to you to get a bonus?

11 A. Well, if it was appropriate, yes. I like to get paid for
12 my services just like you.

13 Q. And you didn't want to be penalized just because the
14 patient didn't want to come back any more?

15 A. Well, Doctor Burns made a point that I wasn't being
16 penalized, I just didn't get the bonus.

17 Q. You wanted to get your bonus even though the patient
18 didn't want to come back any more?

19 A. I wanted to get a bonus if the patient had legitimate
20 complaints and needed the care. If they got better quicker,
21 as I said yesterday, I suggested we get paid a bonus for
22 patients getting better quicker. Doctor Burns didn't seem to
23 like that much.

24 Q. Would you highlight the words no complaints? Isn't it
25 true that when you were talking--when you were writing this

1 letter to Doctor Burns, you were talking about patients who
2 had no complaints?

3 A. I was talking about generalized patients, the whole gamut
4 of patients and I was very upset when I wrote the letter.

5 Q. You talk about patients getting burned out, don't you?

6 A. Well, sure. Most people don't like to go to the doctor.

7 Q. They get tired of going?

8 A. Yeah. These people get tired of going to the doctor.

9 Q. Particularly if they don't have any complaints, is that
10 not true?

11 A. Well, again, no complaints doesn't mean that they don't
12 have problems.

13 Q. But they get tired of coming if they don't have any
14 complaints?

15 A. As in their interpretation of no complaints. Objective
16 testing actually verifies testing that shows positive for
17 complaints.

18 Q. And the patients get tired of coming if they don't have
19 any complaints. Is that true?

20 A. I guess. If you're implying--they can discontinue care
21 whenever they want. I didn't hogtie or make anybody come in
22 if they didn't want to.

23 Q. Isn't that what it says that patients get tired of coming
24 when they don't have any complaints?

25 A. That's what it says, but you're taking it out of context

1 I believe. I previously explained that, numerous times.

2 Q. We're taking your words, patients--they get burned out,
3 especially if they have no complaints, out of context. Is
4 that what you're telling the jury?

5 A. Correct. You're taking one sentence out of that--one
6 paragraph out of four pages worth of text.

7 Q. I'm sorry, how many pages?

8 A. Four.

9 Q. I only have two pages, Doctor. Are there two more pages?
10 Do you have two more pages?

11 A. There was the stress we outlined and then there was
12 another two pages.

13 Q. But it was another document?

14 A. Correct.

15 Q. Okay. We'll get to that in a minute.

16 A. Okay. I'm sorry.

17 Q. There's only two pages for this document, is that
18 correct?

19 A. Correct.

20 Q. Okay. So we're taking your words out of context by
21 reading them like you said?

22 A. Yeah, looking at it this way, most definitely.

23 Q. Okay. You were complaining to the doctor that you
24 weren't getting paid enough for keeping patients around. You
25 wanted to start getting paid more for keeping them around.

1 Is that what you were saying to the doctor?

2 A. No, that's not what I was saying at all.

3 MR. HARRIS: I'm going to object, Your Honor. He's
4 already asked that question and it's been answered.

5 THE COURT: Sustained.

6 THE WITNESS: Numerous times.

7 THE COURT: Doctor Taylor, please--

8 THE WITNESS: I apologize. I'm sorry.

9 THE COURT: Thank you.

10 BY MR. DONLEY:

11 Q. May I--remove magnification, please. Let's go to page
12 two. Would you magnify the first paragraph please? Would
13 you highlight the first sentence for the doctor, please? In
14 this sentence that I have highlighted, "if people don't come
15 back because they see the prices on their bill, I get
16 penalized."

17 A. Meaning if they didn't come back because even though they
18 thought they needed care, they were afraid that they might
19 have a substantial bill; might not come back to the office.

20 Q. This is because you were getting complaints from the
21 patients because the bills were too high, is that not true?

22 A. Some patients complained of that but they also complain
23 when they go to hospitals as well, about prices.

24 Q. Okay. Would you remove magnification, please? In this
25 paragraph are you not complaining about the work hours?

1 A. Yes, I am.

2 Q. And you're complaining about you're not making enough
3 money?

4 A. Well, I said I was making the same or less than I did
5 before, yes.

6 Q. That was a complaint to Doctor Burns that you wanted more
7 money?

8 A. Well, yes. Doesn't everybody?

9 Q. Would you remove the magnification, please? Would you go
10 down to the next paragraph, please, and magnify that? Would
11 you highlight the first two lines of the paragraph, please?

12 These two lines say:

13 "Instead of doing more to get patients better
14 quicker, I must spend a big part of my day checking
15 to see if insurance is paying."

16 Is that correct?

17 A. Well, that was one of many things listed in that
18 paragraph. Of course, you focus on that one particular area
19 and I didn't routinely do that on every patient. If they
20 expressed some concern about their bill, I would ask Bill
21 Twigg. He would usually say, you know, it was covered or not
22 to put the patient's mind at ease.

23 Q. So you were checking on some of the insurance coverage
24 for some of your patients?

25 A. When they asked me to.

1 Q. You were checking on some of the insurance coverage for
2 some of your patients?

3 A. I believe I just answered that.

4 Q. Is that a yes?

5 A. Yes, on a few cases, yes.

6 THE COURT: Doctor Taylor, I must advise you that
7 when a question calls for a yes or no answer, you must first
8 answer yes or no.

9 THE WITNESS: I'm sorry.

10 BY MR. DONLEY:

11 Q. Would you remove the magnification, please and blank the
12 screen? Doctor Taylor, were you present when we played the
13 tape of the Priority One staff meeting?

14 A. Yes, I was.

15 Q. Okay. You were present for that meeting?

16 A. I just said that, yes.

17 Q. You were present at the meeting, not when we played the
18 tape? I thought just when we played the tape.

19 A. I was present at the meeting and I was present here when
20 we played the tape, yes.

21 Q. At the time that this meeting occurred Doctor Medina had
22 not been at Priority One very long, had he?

23 A. Again, based on what Bill Twigg connotated the staff
24 meeting to be, I suppose, yes.

25 Q. The general topic that was discussed in the staff meeting

1 was how good Doctor Medina was for the practice, how he was
2 going to be helpful, is that not true?

3 A. That was Doctor Burns' comments, yes.

4 Q. Okay. You were present for that?

5 A. Yes, I was.

6 Q. Okay. So based upon that, you would also place this tape
7 as having occurred very early in the time period that Doctor
8 Medina worked at Priority One?

9 A. I guess if that's when he started fairly early.

10 Q. Okay. Now along with yourself being present at this
11 Priority One staff meeting, Doctor Filcheck was there also,
12 was he not?

13 A. Correct.

14 Q. Okay. And you heard the laughter on that tape when
15 Doctor Burns was talking about Doctor Medina being pliable,
16 did you not?

17 A. Correct.

18 Q. Did you laugh while--

19 A. That could have been me laughing.

20 Q. Pardon?

21 A. That could have been me laughing.

22 Q. Okay. Did you hear on the tape Doctor Burns suggesting
23 that Doctor Medina was a real gem to have in the practice?

24 A. Yes, I did.

25 Q. Did you agree with that?

1 A. I didn't necessarily agree, but I didn't hire him.

2 Q. Okay. Did you hear the part about Doctor Burns wanted
3 Doctor Halstead to work with Medina?

4 A. Yes, I did.

5 Q. And did you hear the part where Doctor Burns was saying
6 that Medina was good for the practice?

7 A. Yes, I did.

8 Q. Did you hear the part where Doctor Burns said make sure
9 you don't list anything as mild? Everything is to be
10 aggravated, severe, or badly degenerated?

11 A. That's what Doctor Burns said, yes.

12 Q. Okay. Were you present when those words were spoken?

13 A. Yes.

14 Q. Okay. Did you make any protests at that point?

15 A. No, I did not.

16 Q. Okay. Were you present when Doctor Burns said if we
17 don't have it documented, we have to put something in there?
18 Make up something to put in there because if you don't we
19 don't--we won't get paid?

20 A. That's what he said.

21 Q. Okay. Did you jump up and say, wait a minute, Doctor
22 Burns, that's wrong?

23 A. No, I did not.

24 Q. You knew it would be wrong just to make up things for
25 medical records, didn't you?

1 A. If it was made up.

2 Q. That's what Doctor Burns was saying at your meeting?

3 A. That was his expression, yes.

4 Q. Okay.

5 A. I also remember discussing about--

6 MR. DONLEY: Objection, Your Honor, nothing before
7 the witness.

8 THE COURT: Sustained.

9 Q. Now part of this program involved marketing of your
10 practice, did it not?

11 A. Yes, it did.

12 Q. Okay. And as part of your job you went to these various
13 marketing dinners?

14 A. On some, yes.

15 Q. And you--part of your job was to attempt to get people to
16 come to the clinic?

17 A. Well, we were doing a lay lecture on chiropractic and
18 medical offices and we offered them a complimentary screening
19 if they wanted to come in and see if they had a problem and
20 explore a problem further, they could come in.

21 Q. Part of your job was to get people to come to the clinic,
22 is that not true?

23 A. Yes, Doctor Burns stressed that.

24 Q. Okay. And then once at the clinic you would give them a
25 ten-point exam?

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1 A. Yes.

2 Q. You were attempting to get them to become patients at the
3 clinic so you could bill their insurance companies for these
4 services, is that not true?

5 A. Are you asking a yes/no question because I can't answer
6 that in a yes/no fashion?

7 Q. You were attempting to get them to become patients, is
8 that not true?

9 A. Yes.

10 Q. Okay. And once they become patients, you were going to
11 bill their insurance company, is that not true?

12 A. If they decide to come under care, yes.

13 Q. Regardless of whether they needed the services or not?

14 A. That's absolutely false.

15 Q. Okay. Were you present on the date of the search?

16 A. Yes, I was.

17 Q. And at that date you spoke to Sergeant Finkenbinder, did
18 you not?

19 A. Yes, I did.

20 Q. Three days after the search, March 14th, there was another
21 dinner, was there not?

22 A. I don't recall. You mentioned that yesterday. I did not
23 recall that.

24 Q. Okay. If there was another dinner, would you have gone?

25 A. Either myself or Doctor Filcheck.

1 Q. Okay. There was also one on March 17th?

2 A. Again, as I said, I don't recall any of those dinner
3 workshops.

4 Q. You would have gone to one or the other, would you have
5 not?

6 A. Most likely. A lot of them I stayed and worked on
7 patients in the clinic.

8 Q. And if you went, you would have done the same thing as
9 you did before the search, is that not true?

10 A. Correct.

11 Q. May I have up--

12 THE COURT: Mr. Donley, since you're about to move
13 into another area of inquiry, I'm scheduled for a conference
14 call at ten-thirty and at this time I'd like to give the jury
15 their mid-morning recess.

16 Ladies and gentlemen of the jury, I'd ask that you take
17 your recess at this time and be prepared to return to the
18 courtroom at ten till ten. I think I should be finished by
19 that time. Please don't discuss the case among yourselves--
20 sorry, ten till eleven, during that recess and please leave
21 your notebooks face down on your chairs. Thank you for your
22 attention.

23 (Jury out at 10:30)

24 THE COURT: Doctor Taylor, you may step down.
25 Please don't discuss your testimony with anyone during the

1 recess.

2 The Court stands in recess until ten till eleven.

3 (Recess 10:31 a.m. to 10:55 a.m.)

4 THE COURT: Welcome back, ladies and gentlemen.

5 Thank you for your patience. Mr. Donley, you may continue.

6 MR. DONLEY: Thank you, Your Honor.

7 BY MR. DONLEY:

8 Q. May I have up 1-122, please? Would you magnify the top
9 portion of this document for the doctor? This is a copy of
10 some notes that you took, is that correct?

11 A. Yes.

12 Q. I'm sorry, Doctor, I couldn't hear you.

13 A. Yes, they are.

14 Q. Okay.

15 A. I'm having a little audio problem.

16 Q. All right. This was--these are notes from a meeting that
17 you had with Doctor Halstead, is that correct?

18 A. Correct.

19 Q. And this would have been a meeting at the clinic, is that
20 my understanding?

21 A. Yes.

22 Q. I'm sorry. Is that your understanding?

23 A. Yes, it is.

24 Q. And do you know the circumstances how this meeting came
25 about?

1 A. Well, I believe Doctor Halstead was on an in-office visit
2 at the clinic and I believe he had like a half hour before he
3 had to go to the airport and he pulled all the doctors into
4 the office and he wanted to show us how to do a ten-point
5 exam.

6 Q. Okay. By "all the doctors", to whom are you referring?

7 A. Doctor Price was there, Doctor Filcheck, myself and I
8 believe Bill Twigg, the Office Manager.

9 Q. And Mr. Twigg is, of course, not a doctor?

10 A. No, he's not.

11 Q. Okay. Would you remove the magnification and place that
12 on the left side of the screen, please? And on the right
13 side of the screen would you call up 1-044? 1-044 are some
14 other notes that you took of a meeting with Doctor Halstead?

15 A. Yes, they are.

16 Q. And are these two different meetings?

17 A. Yes, they are.

18 Q. Two different days?

19 A. Correct.

20 Q. Okay. If we could go back to a single screen with 1-22
21 please and can you, from your recollection, tell us
22 approximately when this meeting was with Doctor Halstead?

23 A. No, I can't recall.

24 Q. Okay. Do you know what the topic was that Doctor
25 Halstead was instructing you on at this meeting that is

1 reflected in your notes in 1-22?

2 A. It was a sample going through the ten-point examination
3 procedure.

4 Q. I'm sorry, I didn't call up the document. Can I have 1-
5 122 on the screen, please? I believe I was asking you,
6 Doctor, if you could tell us when this meeting occurred?

7 A. I can't recall the exact date.

8 Q. Okay. Can you give us a time frame?

9 A. Probably roughly when--shortly after Doctor Halstead
10 might have become the clinic consultant.

11 Q. Okay. And would you magnify this bottom section please?
12 Now, these are your notes of what Doctor Halstead was telling
13 you, is that correct?

14 A. Correct.

15 Q. Okay. And it's your recollection that these notes were
16 as close as you could get to what Doctor Halstead was saying?

17 A. Correct.

18 Q. Okay. And what was your understanding of the purpose of
19 this meeting? Why would you being instructed on how to do
20 ten-point exams?

21 A. Well, it was a sample of what the ten-point exam
22 consisted of, what points to cover with the patient and this
23 was just an example of how to do one of those.

24 Q. And were you supposed to start doing ten-point exams
25 after this lecture by Doctor Halstead?

1 A. I assume probably after that, yes.

2 Q. Okay. This was to teach you how to do it?

3 A. Yeah, it was an educational tool.

4 Q. And would you highlight the section right above that?

5 And did you write "these bones are severely twisted out of
6 position"?

7 A. Yes, I did.

8 Q. Okay. Is that because those are the words that Doctor
9 Halstead spoke on the day you were having this meeting with
10 him?

11 A. Correct, as an example he used that, yes.

12 Q. And were you supposed to say the patients, these bones
13 are severely twisted out of position?

14 A. I don't believe so. I think he was just using that as an
15 example. Here he just--he happened to use the word severely
16 twisted, a common layman's term that most people would
17 understand.

18 Q. And so everybody was supposed to get severely twisted
19 bones, is that what you were supposed to tell them?

20 A. That's not what I said.

21 Q. Okay. Could you remove the magnification please? Put
22 that on the left side of the screen. May I have up 120 on
23 the right--1-120 on the right screen, please? And this is a
24 copy of Doctor Halstead's ten-point exam procedure, is that
25 correct?

1 A. Yes, I believe from a manual he has.

2 Q. Okay. And you have seen it while you were there at the
3 clinic, is that correct?

4 A. I assume, yes.

5 Q. Okay. And you've read it while even--while it's been up
6 on the screen several times, have you not?

7 A. Correct. Yes, I have.

8 Q. Okay. Can I go to page two of 1-120, please? And would
9 you magnify this portion? The lecture that Doctor Halstead
10 gave you that's reflected in your notes is almost exactly the
11 same as the typewritten ten-point exam that you saw at the
12 office, is that correct?

13 A. Yes.

14 Q. Do you see the words "this is the only dialogue that
15 should be used!?"

16 A. Correct.

17 Q. Okay. You're saying that Doctor Halstead did not tell
18 you that?

19 A. He was just using that as an example, was my
20 understanding at that visit.

21 Q. Okay. Go ahead and remove the magnification please and
22 may I have up--you may blank the screen and may I have up 1-
23 126, please? Do you recognize this form, Doctor?

24 A. Yes, it's a case study form.

25 Q. Your handwriting?

1 A. It's a little light but it appears to be mine.

2 Q. And this was the case study form that was on your desk at
3 the time of the search, was it not?

4 A. I'm unaware.

5 Q. You don't remember Sergeant Finkenbinder's testimony
6 about what was on your desk on the day of the search?

7 A. I can't recall; it's been a long trial.

8 Q. May I have--remove magnification please. Put that on the
9 left-hand side and bring up on the right side 1-289, please.
10 And do you see--would you highlight Exhibit 1-126 going
11 across on this line? Do you see the highlighted portion?

12 A. Yes.

13 Q. And this Exhibit 1-126 was found in your office, is that
14 correct?

15 A. Correct.

16 Q. Would you go back to a single screen with 126 please and
17 would you magnify the portion down at the--and this is what
18 you were ordering for this patient?

19 A. Well, this was a sample form, I believe. I didn't see a
20 patient name on top.

21 Q. Okay. And this was a sample that you were supposed to be
22 following?

23 A. Yes.

24 Q. A guide sheet to show you how to fill out the case study
25 forms, is that correct?

1 A. Correct.

2 Q. Where did you get the information to put onto this guide
3 sheet?

4 A. I believe we might have had a brief lunch meeting with
5 Doctor Halstead and Doctor Burns and Doctor Filcheck and we
6 might have went over briefly how to fill out that form.

7 Q. Okay. And these are instructions that Doctor Halstead
8 was giving you on how to fill out this form?

9 A. Correct.

10 Q. Okay. And under diagnosis, there's a VF right after it.
11 What does that stand for?

12 A. I believe that refers to video-fluoroscopy.

13 Q. Okay. And then the numbers that were written off to the
14 side. Is that how often that test was to be run?

15 A. You know, if there's an arrow pointing to the muscle
16 test, I believe.

17 Q. All right. Under nerve--after nerve conduction there is
18 a printed word that looks like neuro, is that correct?

19 A. Correct.

20 Q. And that's supposed to be how often the neurometer is to
21 be run, is that correct?

22 A. Correct.

23 Q. Okay. Would you remove the magnification, please? And
24 would you magnify this section? Under referrals has an
25 indication that you were supposed to be referring the patient

1 to Doctor Price how frequently?

2 A. It says--well, should I read what it says and then tell
3 you what it meant?

4 Q. Sure. Sure.

5 A. It says four, open parenthesis, 1 W, closed parenthesis.

6 Q. Okay. What did that mean?

7 A. That would mean you would see the medical doctor the
8 first month of care, once a week for four weeks, and you
9 would do that for a period of two months.

10 Q. Okay. And remove magnification. And all the handwriting
11 on this page is yours, is that not true?

12 A. It appears to be. The top is a little light.

13 Q. Okay. May I have page three of this document, please?

14 All right. We'll go on to something else. Would you magnify
15 the top portion for the doctor, please? Is this again your
16 handwriting?

17 A. Yes, it is.

18 Q. This is again the scheduling of various testing
19 procedures?

20 A. Correct.

21 Q. As given to you by Doctor Halstead?

22 A. Correct.

23 Q. Now this is a different visit than the visit that we just
24 discussed where you got the ten-point exam nudge, is that
25 correct?

1 A. I believe it is. It's not dated.

2 Q. And this is a different visit than the exhibit that you
3 actually had a date on, is that correct?

4 A. I believe so.

5 Q. All right. So we have three different meetings with
6 Doctor Halstead so far, is that correct?

7 A. Correct. Brief meetings, yes.

8 Q. Okay. And you may go ahead and remove the magnification,
9 please and blank the screen.

10 MR. DONLEY: Your Honor, I need to call up an
11 exhibit for identification.

12 THE COURT: All right.

13 Q. May I have 1-127? Do you recognize what this document
14 is, Doctor?

15 A. That's a sample case study form that somebody wrote guide
16 sheet on top.

17 Q. Okay. Do you recognize any of the handwriting on this?

18 A. I believe, I'm not sure, but I believe it might be Bill
19 Twigg's, the Office Manager.

20 Q. Okay. And I believe the testimony is that this document
21 was on your desk on the day of the search, is that correct?

22 A. I don't recall.

23 Q. Would you put that on the left for the doctor? And may I
24 have up--and would you do it in a different color? Highlight
25 the 1-127 for the doctor. You indicate--document 1-1--excuse

1 me 1-289 indicates that Exhibit 1-127 was found on your desk
2 the day of the search, is that correct?

3 A. That's what it says there.

4 Q. Do you have any reason to doubt it?

5 A. No, but I don't know why Bill's handwriting would be on
6 my desk.

7 Q. Okay. You don't know why the document was found on your
8 desk?

9 A. I don't believe--I don't know why Bill Twigg's was on my
10 desk.

11 Q. And this indicates it's another guide sheet that was in
12 use at the office?

13 A. Correct.

14 MR. DONLEY: Your Honor, I would offer 1-127.

15 THE COURT: Is there any objection, Mr. Harris?

16 MR. HARRIS: No, Your Honor.

17 THE COURT: All right. 1-127 is admitted. The jury
18 may view the exhibit.

19 Government Exhibit Number 1-127 was admitted.

20 BY MR. DONLEY:

21 Q. And this is the guide sheet you were just testifying
22 about, is that correct?

23 A. Yes, it is.

24 Q. Would you magnify this section for the doctor? And
25 according to this guide sheet the Workers' Comp. patients--

1 every Workers' Comp. patient was to get a cervical or a
2 lumbar support, is that correct?

3 A. That's what it says right there, yes.

4 Q. Okay. Remove the magnification. May I have up 1-044?
5 Okay. This is another meeting with Doctor Halstead that
6 we've referred to before, is that correct?

7 A. Correct. And this time it's on February, I believe
8 that's a 4, '97.

9 Q. Okay. And that would have been Doctor Halstead's last
10 visit to the clinic, is that correct?

11 A. I believe so.

12 Q. All right. And who was present for this meeting with
13 Doctor Halstead?

14 A. I believe Doctor Filcheck, myself, Doctor Burns and Bill
15 Twigg most likely was there as well, plus Doctor Halstead.

16 Q. Okay. The M.D., Doctor Price, was not present?

17 A. I don't recall her being there, no.

18 Q. Okay. The first section deals with a bunch of rehab
19 scheduling and therapy scheduling, is that correct?

20 A. Correct.

21 Q. Can we go to page two, please? Again, these are notes
22 that you took of what Doctor Halstead was telling you, is
23 that correct?

24 A. Yes.

25 Q. And he was telling you that this is the new protocol, is

1 that correct?

2 A. Yes.

3 Q. And the new protocol, according to Doctor Halstead called
4 for, if you would magnify this section right here for the
5 doctor and would you highlight this? TG stands for what,
6 Doctor?

7 A. Temperature gradient.

8 Q. And so according to the Halstead protocol that was given
9 you on 2/4/97, you were to order a temperature gradient test
10 of the patients in the first week, is that correct?

11 A. Correct.

12 Q. Okay. Remove that highlighting and then highlight the
13 second week, please. And according to what Doctor Halstead
14 was telling you at this meeting, that the new protocol called
15 for a neurometer test during the second week of the patient's
16 treatment, is that correct?

17 A. Correct.

18 Q. Okay. Would you remove that? And then on the third week
19 calls for some different types of treatment for the patient,
20 is that correct?

21 A. Correct, rehabilitation treatment on the third week.

22 Q. And some range of motion testing, muscle testing?

23 A. Correct.

24 Q. And an initial ADL?

25 A. Yes.

1 Q. That's what Doctor Halstead was instructing on how to do?

2 A. Yes.

3 Q. At this meeting on 2/4/97?

4 A. Correct.

5 Q. Okay. Would you remove that magnification and go down
6 here and according to Doctor Halstead's instructions at the
7 clinic, you were to start tape recording the ten-point exams,
8 is that correct?

9 A. Correct.

10 Q. And there was supposed to be a cassette on the clipboard
11 with every patient, is that correct?

12 A. Correct.

13 Q. And then you were to just put that in the file as part of
14 the record, is that correct?

15 A. From what it says there, yes.

16 Q. You wrote down what Doctor Halstead said, didn't you?

17 A. Correct.

18 Q. And did you start doing ten-point exams on the patients
19 and recording them?

20 A. I believe we did.

21 Q. May I have up on the screen 1-133, please? Do you
22 recognize this?

23 A. Yes, I do.

24 Q. Okay. And what is this again?

25 A. The letter that I wrote to Doctor Burns about things that

1 bother me lately.

2 Q. Okay. Would you magnify this paragraph? And would you
3 highlight the first sentence please? You wrote this to
4 Doctor Burns, is that correct?

5 A. Correct.

6 Q. And you said talk of ethics than just testing for money-
7 No, capitalized, other reason. Is that what you wrote?

8 A. Correct, when I was angry when I wrote the letter, yes.

9 Q. Okay. You were complaining to Doctor Burns that you were
10 testing just for money. Is that what you were doing?

11 A. Well I was complaining about more generalized testing. I
12 wanted the care to be more case specific, tailored for the
13 individual needs of the patient, more generalized approach to
14 the testing.

15 Q. Were you complaining to Doctor Burns about the testing
16 just for money?

17 A. In that sentence, yes.

18 Q. You were complaining to Doctor Burns about just testing
19 for money, no other reason, is that true?

20 A. Yes, again, as we went through the various testing
21 parameters, I also wasn't very trained on some of those so I
22 did not feel comfortable ordering them at that particular
23 time.

24 Q. Okay. Now would you remove that highlighting, please and
25 would you highlight this section? Were you complaining to

1 Doctor Burns that the testing shouldn't be done just to pay
2 for an expensive piece of equipment?

3 A. Yes.

4 Q. I believe you testified on direct that it wasn't actually
5 twenty-five percent ownership that you were being offered by
6 Doctor Burns but it was a twenty-four and a half percent
7 ownership?

8 A. Correct.

9 Q. And so that you and Doctor Filcheck together could have
10 owned only forty-nine percent of the business?

11 A. Correct.

12 Q. And Doctor Burns would still own fifty-one percent of the
13 business?

14 A. Yes, he would have retained fifty-one percent controlling
15 interest.

16 Q. And you didn't want to be just a part owner, you wanted
17 to have a bigger share, is that correct?

18 A. Well, I didn't want to be just another employee like I
19 was without owning twenty-four and a half percent.

20 Q. If Doctor Burns was willing to let you be more than just
21 another employee, than that would have been okay with you?

22 A. At that time, no, because I didn't really think the price
23 that he was asking was reasonable.

24 Q. The price was too high but if the price was right, you
25 would have been willing to be an owner of this clinic, is

1 that correct?

2 A. No.

3 Q. Am I misconstruing your language here again? I feel like
4 I would be just another employee who happened to own twenty-
5 five percent?

6 A. That's what I said.

7 Q. Could I have page two, please? When you wrote this to
8 Doctor Burns you said I don't like lying to patients why they
9 need a particular test. Is that correct?

10 A. I wrote that in there but I explained why yesterday.

11 Q. Okay. Were you lying to patients about why they needed a
12 test?

13 A. Well, I was uncomfortable ordering, per the protocol,
14 testing that I wasn't trained on either in chiropractic
15 school. Doctor Burns never sent me or offered to send me to
16 any seminars to learn them.

17 Q. Doctor, did you use the word lying or did you use the
18 word uncomfortable?

19 A. I said lying but, again, as I said, I was very angry when
20 I wrote this letter.

21 Q. Are you saying that you were lying when you said you were
22 lying to the patients?

23 A. As I said uncomfortable. If you want to construe that as
24 lying, that's your prerogative.

25 Q. Okay. So you didn't mean the words that you wrote on

1 this, is that what you're saying, you meant something else?

2 A. As I said, I wrote it in the heat of anger and I typed
3 all the stuff very quickly. I probably could have used
4 better terminology, yes.

5 Q. Okay. Did you not say especially when they have no
6 complaints that would indicate such a test?

7 A. I did say that in the letter but, again, I also explained
8 I didn't really understand the testing either.

9 Q. You didn't understand what complaints mean?

10 A. No, I didn't understand the SEP.

11 Q. You are saying, are you not, that the patients had no
12 complaints that would indicate such a test?

13 A. As, in terms of that particular piece of a quarter and I
14 used that as an example, yes. I didn't understand the test.

15 Q. What does no complaints mean to you, Doctor?

16 A. Well, if you take no complaints by itself, it means the
17 patient did not complain of anything on that day or they said
18 they had no pain or any dysfunction.

19 Q. And what do the words "indicate such a test" mean to you
20 in this sentence, Doctor?

21 A. It would be the appropriate use of that test, I guess
22 you're getting at.

23 Q. No complaints that would justify giving the test is what
24 you meant?

25 A. Correct.

1 Q. Okay. And then you go on to say "I have to make a
2 medical necessity to an insurance company justifying this
3 testing procedure". Is that what you say?

4 A. Correct. That's what I wrote there.

5 Q. And by that you were complaining about having to make up
6 the letters of medical necessity to an insurance company for
7 a test a patient didn't need when they had no complaints
8 which would justify such a test?

9 A. I said I didn't understand the test. Obviously, Doctor
10 Burns disagreed with me. He was the senior chiropractor and
11 it was his clinic. He said the tests had validity.

12 Q. You were complaining to Doctor Burns that you didn't like
13 making up letters of medical necessity about tests that the
14 patients didn't need?

15 MR. HARRIS: Your Honor, I object. He didn't say
16 make up. He said make a letter. He said make a letter.

17 THE COURT: Sustained.

18 Q. You were complaining to Doctor Burns about having to make
19 a letter of medical necessity to the insurance company
20 justifying a test for which the patients didn't need and
21 didn't have any complaints, which would have justified giving
22 such a test. Is that not true?

23 A. I was saying there I was uncomfortable writing a medical
24 necessity letter because I didn't understand the test and,
25 again, I didn't say that the test wasn't positive.

1 Q. Is it not true that what you were complaining to Doctor
2 Burns was that you did not like having to write letters of
3 medical necessity to an insurance company to justify the
4 testing procedure for a patient who didn't need the test
5 because they had no complaints, which would indicate such a
6 test?

7 A. I wrote there that I didn't like sending a medical letter
8 for a test that I didn't understand and writing a test to the
9 insurance company.

10 Q. I'm sorry, Doctor. I'm not seeing the word understand in
11 this paragraph at all.

12 A. Again, you're taking it out of context. I'm explaining
13 to you what I wrote.

14 Q. I'm taking your words out of context by reading them
15 almost word for word from this paragraph?

16 A. Correct. You take little snippets out of each little
17 paragraph, yes.

18 Q. Okay. So you didn't use the word understand. You meant-
19 -instead you wrote the word lying, is that correct?

20 A. Correct.

21 Q. And when you used the word no complaints, you meant
22 something other than no complaints, is that right?

23 A. No, I meant that.

24 Q. Okay. And would indicate such a test. Did you mean
25 something other than would indicate such a test?

1 A. Well, again, for example, if you want to use an example--

2 Q. No, I just want to know, did you mean something other
3 than the words would indicate such a test when you wrote
4 those words?

5 A. No, I suppose I did not.

6 Q. Okay. Did you mean something other than write a letter
7 of medical necessity when you said make a medical necessity?

8 A. I believe that's what that implied, yes.

9 Q. Okay. And did you mean something other than to an
10 insurance company when you wrote the words to an insurance
11 company?

12 A. No, I wrote it to an insurance company.

13 Q. Okay. And did you mean some word other than justify the
14 testing when you wrote the words justify this testing?

15 A. No.

16 Q. Go ahead and remove the highlighting and magnification
17 please. Would you highlight the first part of that sentence
18 please? You wrote to Doctor Burns, we are told to keep the
19 patients as long as possible?

20 A. Correct. That's what it says right there.

21 Q. And is it not true that that's what the instructions were
22 at the clinic, to keep the patients as long as possible?

23 A. Through the four phases of care, through wellness.

24 Q. Through all four phases?

25 A. If the patient wanted that type of treatment, yes.

1 Q. That was the procedure at the clinic, correct?

2 A. If patients wanted wellness care, yes.

3 Q. That was the procedure at the clinic, yes?

4 A. Yes.

5 Q. Okay. And that was a procedure that was put in place by
6 Doctor Halstead and Doctor Burns, is that correct?

7 A. Partially. Can I elaborate?

8 Q. No, thank you. Remove the highlighting please and remove
9 the magnification. In this letter you're also complaining
10 about working the extra hours, is that right?

11 A. Yes.

12 Q. Okay. But you were willing to work the extra hours if
13 you could be compensated more for it, is that correct?

14 A. I'm sure most people would, yes.

15 MR. DONLEY: Could I have just a moment, Your Honor?

16 THE COURT: Yes.

17 MR. DONLEY: No further questions, Your Honor.

18 THE COURT: All right. Mr. Jaffe?

19 MR. JAFFE: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. JAFFE:

22 Q. Doctor Taylor, the first area I'd like to inquire is
23 let's continue on these letters that you sent why I'm
24 feeling, I believe you say frustrated or angry.

25 A. Okay. Bothering me, stressed, that kind of thing.

1 Q. Is it fair to say that you were concerned about the fact
2 that the focus of the clinic was being changed from
3 chiropractic?

4 A. Yes.

5 Q. I think that's what you said in your letter?

6 A. Correct.

7 Q. You didn't like the fact that it was moving away from
8 chiropractic to medical and multidisciplinary?

9 A. Right, that was a more broader scope, right.

10 Q. And you testified that you went to Palmer College?

11 A. College.

12 Q. Steeped in tradition?

13 A. Yes.

14 Q. And what you went to chiropractic college for was to be a
15 chiropractor?

16 A. Correct.

17 Q. Do you recall having a discussion with Doctor Burns about
18 his response to that letter with you?

19 A. Excuse me?

20 Q. Did he ever talk to you about your complaint?

21 A. Yes. He kind of briefly went through it point by point
22 in a verbal fashion.

23 Q. And I think what you said in your letter is this is a
24 chiropractic clinic and the medical doctor is getting paid
25 more money and acting like she owns the place?

1 A. Correct.

2 Q. All right. And didn't Doctor Burns tell you it's not a
3 chiropractic clinic any more?

4 A. Yes. He informed me that, again, although it was a
5 chiropractic clinic when it was Mountaineer Chiropractic it
6 was changing over to become a multidisciplinary practice?

7 Q. Did he tell you that under the multidisciplinary practice
8 as taught by Ron Halstead the chiropractor wasn't in charge
9 any more?

10 A. Could you say that again?

11 Q. The chiropractor is not in charge any more?

12 A. Did he say that?

13 Q. That the chiropractor--you, as a chiropractor, weren't in
14 charge any more, even of your own patients?

15 A. Okay. Right. Yes.

16 Q. And the person that would be in charge, or at least in
17 final charge of the patient, would be the medical doctor?

18 A. Correct.

19 Q. And if not the medical doctor, Doctor Burns, as the
20 clinic owner?

21 A. Correct.

22 Q. And you, under this new theory, were really nothing more,
23 with all due respect, than a physical therapist?

24 A. Yes, another employee.

25 Q. Another employee, or an x-ray technician?

1 A. Yes.

2 Q. Or someone filling out insurance forms?

3 A. Correct.

4 Q. And you didn't like that, did you?

5 A. No, I didn't.

6 Q. That's not why you went to chiropractic college, is it?

7 A. Correct.

8 Q. And you voiced that to Doctor Burns, didn't you?

9 A. Yes, I did.

10 Q. Told him that you felt that as a chiropractor you should
11 have more say in the treatment of patients?

12 A. Yes.

13 Q. So he said it was his clinic, correct?

14 A. Correct.

15 Q. He made the rules?

16 A. Correct.

17 Q. And it was his decision that he and the medical doctor
18 would be in charge of every single patient in the clinic,
19 isn't that true?

20 A. Correct.

21 Q. Now is it fair to say that when you went to Palmer you
22 didn't learn anything about the specific test equipment
23 called the neurometer, correct?

24 A. No, I did not.

25 Q. Is it fair to say that except for a brief explanation by

1 Doctor Burns, you certainly didn't have the information
2 conveyed by Doctor Katims here as you heard him?

3 A. No, I didn't. I learned actually quite a lot from his
4 presentation.

5 Q. And temperature gradient, you heard the testimony of
6 Doctor Risley, right?

7 A. Correct.

8 Q. Heard him say that in his opinion it was appropriate that
9 every patient receive a temperature gradient test every
10 single time they come up?

11 A. Correct.

12 Q. Now that wasn't your opinion back then, was it?

13 A. No, it was not.

14 Q. What kind of seminars did you attend for the temperature
15 gradient testing prior to your talking to
16 Doctor Finkenbinder?

17 A. Well, at school I had a complete course in chiropractic
18 instrumentation and that dealt with the various heat or
19 temperature differential studies. One was called a
20 neurocalometer. You ran the instrument along side of the
21 spine from top to bottom and that would have a little needle
22 that would deflect to the cold side and that would indicate a
23 possible potential subluxation. You've heard the term
24 subluxation before, the bone being out of place putting
25 pressure on the nerve.

1 Q. Doctor Taylor, let me ask, what kind of training did you
2 receive on the temperature gradient test that you were
3 administering, or you didn't administer, that was being used
4 at the clinic from the time that you were working there?

5 A. You're talking about that specific machine?

6 Q. Correct.

7 A. Just a verbal instruction showing the dermatome sheet.

8 Q. Did you take any courses on the use of the temperature
9 gradient testing after you left chiropractor college?

10 A. No, I did not.

11 Q. Is the same true for diagnostic ultrasound?

12 A. Correct.

13 Q. Is it fair to say that you did not have a full
14 understanding of the importance of these tests during the
15 time you were working at Priority One?

16 A. Definitely. Those are more medically aligned tests.

17 Q. More medically aligned?

18 A. Right.

19 Q. And you didn't receive testing on medically aligned tests
20 in chiropractic college?

21 A. Brief overviews on those.

22 Q. Do you remember the Government showed you an exhibit of
23 your notes from Doctor Halstead's discussion on the ten-point
24 exam?

25 A. Correct.

1 Q. Do you remember that?

2 A. Yes.

3 Q. I think you said that after you took those notes you put
4 them in a binder and probably filed them away somewhere?

5 A. Correct.

6 Q. Let me ask you this. Before you gave a ten-point exam,
7 would you look at that--those notes you took to refresh your
8 recollection of how you give a ten-point exam?

9 A. No, I would not.

10 Q. Did you--if you didn't use the notes, then how did you
11 know how to give a ten-point exam?

12 A. Just by Doctor Halstead's brief introduction to that.

13 Q. Did you always use the word severely twisted in every
14 single ten-point exam?

15 A. No.

16 Q. How about if the patient didn't have a severely twisted
17 vertebra, would you tell them they have a severely twisted
18 vertebra?

19 A. No, I would not.

20 Q. Did you tell Mr. Muth that he had a severely twisted
21 vertebra?

22 A. No. I told him in my estimation it was mild to moderate.
23 I never used severe at all.

24 Q. All right. Did you ever tell patients that they had a
25 moderately twisted or a mildly twisted vertebra?

1 A. Yes, definitely.

2 Q. Even on the ten-point exam?

3 A. Yes.

4 Q. Are you saying that Doctor Halstead told you to always
5 use the word severely twisted on every single patient that
6 you ever saw on a ten-point exam?

7 A. I took that as a learning tool, one example of many how
8 you could do it.

9 Q. That was your understanding of it?

10 A. Correct.

11 Q. Your understanding was not that Halstead was saying on
12 every single patient you have to use the word severely
13 twisted?

14 A. Exactly.

15 Q. Okay. I think you also testified--we had this example--
16 the other handwritten note you had was of your notes from
17 2/4/97 about the protocols. Do you remember that?

18 A. The rehab protocols?

19 Q. The rehab protocols?

20 A. Correct.

21 Q. I think you also said you put those in a binder and
22 probably filed them away?

23 A. Yes, I did.

24 Q. Before you saw every patient, did you take those notes
25 and look at them and study them and write down what was on

1 those notes?

2 A. No, I did not.

3 Q. You used those as guidelines, didn't you?

4 A. I used those as guidelines. I figured that was more of a
5 physical therapist's job.

6 Q. Now you testified that at the Burns clinic if you didn't
7 do a particular test that someone ordered they would dock
8 your pay the six bucks for the patient, is that correct?

9 A. Yes, Doctor Burns or Bill Twigg.

10 Q. Do you have any information that that's Doctor Halstead's
11 idea?

12 A. No, I do not.

13 Q. Have any information that Doctor Halstead even knew about
14 that?

15 A. No.

16 Q. Now you recall that we showed your transcript from Palmer
17 College?

18 A. Correct.

19 Q. All right. I don't remember seeing any courses on how to
20 operate in an MD/DC environment. Did you ever take a course
21 about that?

22 A. There were none.

23 Q. So you didn't learn that at chiropractor college?

24 A. No, I did not.

25 Q. All right. We've talked a little bit about these

1 jurisprudence, I forgot the word, practice--practice
2 something courses, this two-credit course?

3 A. Right.

4 Q. Let me--you took three courses on practice management or
5 something?

6 A. Yeah, very cursor.

7 Q. Let me ask you this. Based on these courses, these three
8 courses you took in college, did you feel competent to run a
9 chiropractic practice on your own?

10 A. No. That's why I wanted to become an associate doctor.

11 Q. Is it common for chiropractors out of college--
12 chiropractic school, to associate themselves with a more
13 experienced chiropractor?

14 A. Yes.

15 Q. Why do they do that?

16 A. To learn the ropes essentially.

17 Q. In fact, you've been a chiropractor for ten years?

18 A. Yes, since 1991.

19 Q. Okay. You went to Palmer?

20 A. Correct.

21 Q. Very esteemed school?

22 A. Yes.

23 Q. Do you know other chiropractors around the country?

24 A. Yeah.

25 Q. Isn't it true that most chiropractors who come out of

1 chiropractic school work for other people first to learn the
2 ropes, as it were?

3 A. Yes.

4 MR. DONLEY: Objection.

5 Q. Based on your knowledge? Based on your knowledge and
6 experience, isn't that the way most--

7 A. Yeah, most of my friends did do that. Exactly.

8 Q. Okay. We had some discussion, I just want to clear up.
9 Something about the electro-diagnostic devices. I don't
10 think you had an opportunity to explain that. What is your
11 definition of an electro-diagnostic device?

12 A. Essentially I thought it meant it plugged into the wall.

13 Q. Okay. Now on direct your lawyer took you through some of
14 Rebecca Price's notes. Do you recall that?

15 A. Yes, I do.

16 Q. Do you recall her asking--do you recall him asking you
17 questions under what's called assessment, under the SOAP
18 categories, SOAP assessment?

19 A. Yes.

20 Q. Do you recall some, and I'm not going to call up all
21 these things. Is it fair to say--did you recall from the
22 assessment that Doctor Price wrote on some of the patient
23 forms that the patient was feeling good?

24 A. Yeah. Improving, feeling better, yes.

25 Q. And that was the goal of your treatment, wasn't it?

1 A. Correct.

2 Q. So, at least with respect to the patients who you were
3 treating that we discussed on direct, some of these patients
4 seemed to have some beneficial result from what you're doing?

5 A. Correct.

6 Q. I guess that made you feel pretty good?

7 A. Yes.

8 Q. Because that's why you became a chiropractor?

9 A. Exactly.

10 Q. Do you know whether the Priority One Clinic had a form
11 authorizing medical treatment?

12 A. I don't believe they did.

13 Q. All right. Do you feel that you're responsible for
14 obtaining the patient's consent to see a medical doctor?

15 A. No. I don't remember when I went to a medical doctor
16 signing one.

17 Q. Now on cross-examination they asked you certain questions
18 regarding Workers' Compensation. Do you recall generally
19 that topic?

20 A. Yes.

21 Q. All right. I believe the substance of your answer was
22 that the Workers' Compensation patients did not receive any
23 neurometers or temperature gradient testing, right?

24 A. Correct.

25 Q. Okay. Let me ask something. You know a little bit about

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1 Workers' Compensation in West Virginia, don't you?

2 A. Yes.

3 Q. Workers' Compensation puts out what they call treatment
4 guidelines, don't they?

5 A. Yes, they do.

6 Q. Workers' Compensation basically tells you, the
7 chiropractor, what treatments and diagnostic tests you have
8 to use, correct?

9 MR. DONLEY: Objection, Your Honor, can we have a
10 time frame?

11 MR. JAFFE: Based on his knowledge.

12 THE COURT: Sustained.

13 MR. JAFFE: During the period--

14 THE COURT: Rephrase the question.

15 MR. JAFFE: Thank you, Judge.

16 BY MR. JAFFE:

17 Q. During the period, let's focus our attention between 1993
18 and 1997, all right. You had some familiarity with the
19 Workers' Compensation rules, right?

20 A. Yes.

21 Q. All right. They issued something called, what they call
22 Treatment Guidelines, correct?

23 A. Correct.

24 Q. Isn't it true that Workers' Compensation basically tells
25 the chiropractors what treatment and what tests they are

1 required to do?

2 A. Yes.

3 Q. And they--and basically you're not allowed to do tests
4 and therapies that aren't on those guidelines, correct?

5 A. Correct.

6 Q. And that's the reason why no patient that you treated for
7 Workers' Compensation at the clinic ever received a
8 neurometer test, isn't it?

9 A. Correct.

10 Q. And that's the reason why no patient at your clinic, who
11 was there for Workers' Compensation, ever received a
12 temperature gradient test?

13 A. Correct.

14 Q. Because Workers' Compensation Board said not to do it?

15 A. That is true.

16 Q. Let's talk a little bit about the ADL, the activity of
17 daily living. Isn't it true that under the ADL you are
18 required to interview patients?

19 A. I wasn't aware of that.

20 Q. Well, what did you do with the patients? Did you talk to
21 the patients?

22 A. Oh, yes.

23 Q. Did you ask them questions?

24 A. Yes, I did.

25 Q. Did they give you answers?

1 A. Correct.

2 Q. All right. And if a patient said they were having
3 difficulty doing certain things, would you respond to them?

4 A. Yes. I might make suggestions.

5 Q. You might make suggestions. Now, let me ask something.
6 How would you determine if those suggestions were implemented
7 that you made during the first time?

8 A. I would have to follow up and ask them again.

9 Q. By doing another ADL?

10 A. Correct. Seeing if the same things were restricted and
11 limited.

12 Q. So it's not really fair to say, as I think the Government
13 is saying, that all you do is the patient fills out this
14 whole form and you do nothing?

15 MR. DONLEY: Objection.

16 THE COURT: Sustained.

17 MR. JAFFE: I understand. Thank you, Judge.

18 BY MR. JAFFE:

19 Q. Did you have some role in interviewing the patient and
20 giving some advice to the patient regarding activities of
21 daily living?

22 A. Yes.

23 Q. And that would be reflected in the ADL notes?

24 A. Correct.

25 Q. Now what happens if a patient said that they didn't have

1 any problems adjusting to daily living. What would you put
2 down then?

3 A. I would put no restrictions.

4 Q. All right. Now if the patient had a restriction, what
5 would you do?

6 A. I would add that to the note.

7 Q. That's your understanding of how an ADL works?

8 A. Correct.

9 Q. I have to ask you some questions about some documents
10 that I'm a little confused about. Let's talk about--these
11 are documents that came in evidence--they're now in evidence,
12 the 126. Can we pull up 126, page one? Is this your
13 handwriting in this form?

14 A. Yes, it is.

15 Q. These are notes that you took and can we go to page two?
16 The whole document's in evidence, I believe, right? Mr.
17 Government, the whole document's in evidence, this is page
18 two?

19 MR. DONLEY: Your Honor, I didn't realize he was
20 addressing me.

21 MR. JAFFE: I'm sorry, Mr. Donley, I apologize.

22 MR. DONLEY: As I understand, when an exhibit's
23 admitted, it's admitted.

24 THE COURT: That's correct.

25 MR. JAFFE: I just wanted to make sure that we're

1 not publishing something.

2 BY MR. JAFFE:

3 Q. Is that also your handwriting on page two?

4 A. Yes, it is.

5 Q. See where it says "therapeutic 4W" halfway down?

6 A. Yes, I do.

7 Q. And it says, what, 15W?

8 A. Correct.

9 Q. It says "S" in a circle?

10 A. Right, that would mean stop.

11 Q. Stop. Stop what?

12 A. Stop the rehab at that time.

13 Q. Let me ask something. Let's just take a look at that
14 same thing, therapeutic 4W. What would happen if the--what's
15 your understanding of what would happen if the first time you
16 run the test it's negative?

17 A. Well, then we do not certainly need to do rehab.

18 Q. Okay. Well, but it's written 4W?

19 A. Right.

20 Q. So are you telling this jury that 4W is, maybe it's 4W
21 but if the patient doesn't need it, then they don't do it?

22 A. Right. It's a general guideline.

23 Q. General guideline. Now if we can go to 127, which I
24 believe is also admitted. And I think you testified that to
25 the best of your knowledge this is the handwriting of Bill

1 Twigg?

2 A. I believe so, yes.

3 Q. All right. Was this form--what's the relationship, the
4 time relationship between this form and the first page of
5 126, which is the same form with your notes? Was that done
6 at the same time?

7 A. It was probably done during the same meeting.

8 Q. The same what?

9 A. Meeting.

10 Q. At the same meeting. And so 126--127 is Bill Twigg's
11 notes and 126 is your notes, right, of the same meeting to
12 the best of your knowledge?

13 A. Yes.

14 Q. Okay. Now as I understand it, Doctor Halstead met with
15 you once and talked about the ten-point exam, right?

16 A. Yes, just maybe a half-hour.

17 Q. Right. Because I think you testified that he was on his
18 way to the airport?

19 A. Correct.

20 Q. And I know he met with you on 2/4/97, correct, because
21 those are the date for your notes, right?

22 A. Correct.

23 Q. Do you recall any other specific meetings with Doctor
24 Halstead?

25 A. Not that I can recall right now.

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1 Q. All right. Let me ask something. Isn't it true that
2 this was Bill Twigg explaining to you, 127 is Bill Twigg
3 notes, right?

4 A. Right.

5 Q. 126 are your notes for the same meeting?

6 A. Correct.

7 Q. This is Bill Twigg explaining to you things about the
8 protocol, correct?

9 A. I believe so.

10 Q. Do you have any evidence or any recollection that Doctor
11 Halstead was even at that meeting that Bill Twigg was
12 explaining to you the protocol?

13 A. I don't really recall, sorry.

14 Q. All right. Now do you recall the testimony of Mr. Twigg
15 saying that the clinic had hid from Doctor Halstead the fact
16 that they weren't collecting co-pay?

17 MR. DONLEY: Objection.

18 MR. JAFFE: I'm asking if he recalls testimony in
19 the case.

20 THE COURT: What's the objection to?

21 MR. DONLEY: I believe he's misstating the evidence,
22 Your Honor.

23 THE COURT: Could you rephrase the question?

24 MR. JAFFE: Yes.

25 BY MR. JAFFE:

1 Q. Let me just go this way. You recall Doctor Halstead's
2 testimony, correct?

3 A. Correct.

4 Q. Basically. Do you recall him testifying about a
5 conversation he had with Bill Twigg where Mr. Twigg said that
6 the clinic, that Burns was lying to him? Do you remember
7 that testimony?

8 A. Can you be a little more specific, please?

9 Q. Do you remember a--you heard Doctor Halstead's testimony?

10 A. Correct.

11 Q. All right. Do you recall him saying that he had a
12 conversation with Bill Twigg after February--after the clinic
13 raid?

14 A. Correct.

15 Q. That Twigg--that Burns had been lying to Halstead all
16 along?

17 A. Yes, I do now.

18 Q. Let me ask you this. After February of 1997, did you
19 ever see Doctor Halstead again at the clinic?

20 A. No, not to my recollection.

21 Q. Now you don't remember seeing him. And how about, do you
22 ever remember--do you have any information that the clinic
23 was ever able to purchase forms from Doctor Halstead after
24 that--after that February visit?

25 A. Could you say that again, please?

1 Q. Do you have any--do you have any information about the
2 clinic's attempt to secure forms from Doctor Halstead through
3 the use of clinic employees in Pennsylvania? Do you know
4 anything about that?

5 A. No, I wasn't in charge of purchasing forms, no.

6 Q. Isn't it true that after Doctor Halstead heard from Twigg
7 that Burns was lying about all this stuff, Halstead refused
8 to come to Burns' clinic any more? That's really what
9 happened, isn't it?

10 MR. DONLEY: Objection, Your Honor.

11 THE COURT: Sustained.

12 MR. JAFFE: One moment, Your Honor.

13 BY MR. JAFFE:

14 Q. Did you--let me ask you this. You know you're charged
15 with conspiracy?

16 A. Correct.

17 Q. To commit health care fraud?

18 A. Yes. Conspiracy count, yes.

19 Q. Did you conspire with my client to commit health care
20 fraud?

21 A. No, I did not.

22 Q. Did you try to give your patients as good as service as
23 you can give?

24 A. The best possible--the best possible I could give.

25 Q. Did Doctor Halstead in any way ever impede you from doing

1 that with your patients?

2 A. No, he did not.

3 MR. JAFFE: Thank you. No further questions.

4 THE COURT: All right. Mr. Zimarowski?

5 MR. ZIMAROWSKI: Yes, Your Honor. And, Your Honor,
6 I can finish within the next ten minutes.

7 THE COURT: Thank you.

8 MR. ZIMAROWSKI: For your scheduling purposes.

9 CROSS EXAMINATION

10 BY MR. ZIMAROWSKI:

11 Q. Scott, very briefly, I've only got about a half a dozen
12 questions I want to ask. First off, you went through a lot
13 of--Mr. Donley asked you about several of the visits by
14 Doctor Halstead, correct?

15 A. Correct.

16 Q. Okay. Was--at any time during any of this period of time
17 when Doctor Halstead was consulting to the clinic, did you go
18 over any of those inter-office visit memos, the IOV's that
19 we've been talking about for three weeks now?

20 A. No.

21 Q. Did you ever see them?

22 A. No.

23 Q. Burns or Twigg ever share them with you?

24 A. No.

25 Q. What about the statistics? Did Burns and Twigg ever

1 share with you any of the statistical information?

2 A. No, they wouldn't.

3 Q. What do you mean "they wouldn't"?

4 A. Well, I guess it would show how much he was making and I
5 think he was uncomfortable with everybody realizing how much
6 he made.

7 Q. Okay. Let's--a couple of loose ends here. Call up
8 Exhibit Number 08-020. 08-020. Now this is the activities
9 for daily living form that I know have gone over endlessly.
10 Are these the signature areas?

11 A. Yes, correct.

12 Q. And there appears to be--can you identify the signature
13 after the word patient?

14 A. Yes, the patient's name.

15 Q. That's--Scott, keep back farther. You've just been
16 killing me, okay. And the doctor, who's the doctor that
17 signed?

18 A. Doctor Filcheck signed that one.

19 Q. Okay. And this therapist, who's that?

20 A. Jemia Filippine, the physical therapist.

21 Q. And she's the young lady that testified here earlier, oh,
22 a week and a half ago?

23 A. Yes, she was and is.

24 Q. Okay. She's a physical therapist?

25 A. Correct.

1 Q. And these are the components of the activities for daily
2 living, are they not?

3 A. Yes, they are.

4 Q. The patient input, the chiropractor input and the
5 physical therapist input?

6 A. Correct.

7 Q. All right. Lights up, please. Thank you. A couple
8 other quick questions, Scott. Do you have anything to do
9 with who, meaning which entity bills, whether it's Doctor
10 Price, Doctor Medina, Priority One, Mountaineer Chiropractic,
11 do you have any input in that at all?

12 A. No, I did not.

13 Q. Did you have any input into what is billed, whether or
14 not something is written off or billed or waived or just
15 trashed?

16 A. No input whatsoever.

17 Q. Okay. Do you have any input into how things were billed?

18 A. No, I did not.

19 Q. Who, what, when--how about when. Did you have any input
20 into when things were billed?

21 A. No, I did not.

22 Q. Okay. Scott, did you, just so we understand this. I
23 know you've been rather adamant about this position, but I
24 want to understand and I want the jury to understand. Has
25 there been any time during the 1993 to '97 period where you

1 told a patient they had a condition that they didn't have?

2 A. No. I always thought that they had legitimate complaints
3 and problems.

4 Q. They had a treatable condition?

5 A. A treatable condition, correct.

6 Q. And if someone walked in with a totally straight spine,
7 have you ever told them they had scoliosis?

8 A. No, I have not.

9 Q. If they came in with, I'm getting off in my, out of my
10 area but if they didn't have a treatable condition, would you
11 tell them they had a condition that required treatment?

12 A. No, I would not.

13 Q. Do you know if Doctor Filcheck ever said anything like
14 that?

15 A. I don't believe he ever did.

16 Q. All right. Last point, real quick, Scott. Just as a
17 prerequisite here, Mr. Donley went over some employment
18 contracts with you, did he not?

19 A. Yes, he did.

20 Q. Actually there were three, were there not?

21 A. Correct.

22 Q. And just for any of the note takers in the jury, it's 01-
23 02 was your first contract. Don't call that up; I don't need
24 that one. 01-04 was the second contract and 01-16 was the
25 third contract, correct?

1 A. I believe so.

2 Q. Okay. Well, let me do it this way. The first contract
3 was for, I think a one-year contract?

4 A. The first one was for three years with Mountaineer.

5 Q. Okay. And the second one was for a three-year contract,
6 correct?

7 A. I believe so.

8 Q. And the last one, as Mr. Donley brought up, was for a
9 one-year contract?

10 A. One-year with renewal thereafter one year.

11 Q. And, again, I don't want to turn the lights off, but all
12 those contracts, particularly the first ones, had what we
13 call restrictive covenants where you could not, if you left
14 employment, could not practice within a geographical area or
15 time frame, did they not?

16 A. Yes, they did.

17 Q. And they also had financial penalties, did they not?

18 A. Yes, they did.

19 Q. I think your first one had a sixty thousand dollar
20 financial penalty?

21 A. Correct.

22 Q. Sixty thousand dollars?

23 A. Correct.

24 Q. All right. Let's call up 01-004, if we could, at page
25 two. Scott, we've identified this as the second contract

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1 already. This is the second contract that you signed, second
2 three-year contract.

3 A. Okay.

4 Q. I believe in 1995, May of '95.

5 A. Okay.

6 Q. According to the exhibit. Look at paragraph number five.
7 That was the paragraph that Mr. Donley showed you, correct?

8 A. Correct.

9 Q. Where you had six dollars per patient, seven dollars per
10 patient, things of this nature?

11 A. Yes.

12 Q. Okay. Let's blowup the paragraph right above it,
13 paragraph number four in its entirety, please and blow it up.
14 Scott, is this a clause in your contract?

15 A. Yes, it is.

16 Q. By the way, you're not a lawyer are you?

17 A. No, I'm not.

18 Q. Okay. And you just have to read language as it's just
19 simply printed, right?

20 A. Correct.

21 Q. Will you read this paragraph to the jury please?

22 A. Yes. "4. Duties and supervision. The corporation
23 shall assign to the chiropractic practitioner
24 various of its patients for chiropractic treatment.
25 The chiropractic practitioner shall perform such

1 diagnosis and treatment of said patients assigned to
2 him to the best of his ability in accordance with
3 the standards of the profession and consistent with
4 any rules and regulations promulgated by the
5 corporation dealing with the general treatment of
6 patients provided; however, that the chiropractic
7 practitioner's performance shall be subject to the
8 ultimate control and supervision of the corporation.
9 Chiropractic practitioner understands and
10 acknowledges that if he or she fails to perform
11 diagnosis and treatment of any patient to the best
12 of his or her ability or fails to adhere to any
13 promulgated by the corporation, that he may be in
14 the--well it says discretionary but I assume that
15 means discretion "of the corporation be reviewed
16 from treating such patient."

17 Q. Thank you. Lights up. Scott, is there any doubt in your
18 mind as to who's in charge?

19 A. None whatsoever.

20 Q. And who was in charge? Who's the corporation that was
21 made reference to in those duties and responsibilities?

22 A. Doctor Burns.

23 Q. Okay. And Mr. Twigg?

24 A. And Mr. Twigg and Doctor Medina.

25 Q. And they talked about procedures. Actually they made

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1 reference even to protocols in this thing, another term for
2 what was called protocol standard, right?

3 A. Correct.

4 Q. All right. And those were what you're required to adhere
5 to by contract, were you not?

6 A. Correct.

7 Q. And, again, Burns and Twigg were in charge and they
8 called all the shots, they ordered the tests, they ordered
9 the protocols and you and Doctor Filcheck simply implemented
10 the plans, the protocols, pursuant to the terms and
11 conditions of your contract, correct?

12 A. Correct.

13 Q. Did you conspire with these guys to make up these
14 protocols and terms and conditions?

15 A. No, I did not.

16 MR. ZIMAROWSKI: Your Honor, let me--can I just have
17 one minute? I may not have any more questions.

18 (Pause)

19 MR. ZIMAROWSKI: Your Honor, I'm told the Government
20 is going to object to my using of a document so I'm not going
21 to even go there.

22 THE COURT: All right. Mr. Harris, do you have any
23 redirect?

24 MR. HARRIS: No, Your Honor.

25 THE COURT: All right. Thank you. Doctor Taylor,

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1 you may step down and return to your seat.

2 (Witness excused)

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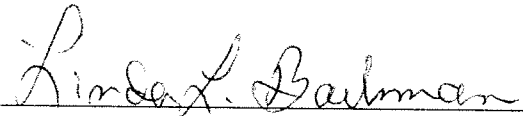
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CERTIFICATE

I, Linda L. Bachman, Official Reporter of the United States District Court for the Northern District of West Virginia, do hereby certify that the foregoing is a true and correct partial transcript of the proceedings had in the above-styled action on January 28-30, 2003 as reported by me by stenomask.

I certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Given under my hand this 9th day of March, 2004.


LINDA L. BACHMAN, CCR, CVR
Official Reporter, United States
District Court for the Northern
District of West Virginia